IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

MFA.No. 835 of 2000()

OPMV.1045/1990 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA

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APPELLANT: 3RD RESPONDENT.

NATIONAL INSURANCE COMPANY LTD.
REP. BY THE ASST. DIVISIONAL MANAGER, DIVISIONAL OFFICE, KOCHI.

BY ADV. SRI.RAJAN P.KALIYATH

RESPONDENTS:

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1. BINDU MATHEW @ BINDUMOL, D/O.K.C.MATHEW, MERRY VILLA WARD NO.III, VAYALAR PANCHAYAT, VAYALAR EAST POST, CHERTHALA TALUK.

2. R.VIMALAMMA, D/O.VASUDEVAN PILLAI, PANVARA MADATHIL PUTHENVEEDU, KALARKODE POST, ALEPPEY.

3. RAMACHANDRAN, S/O.KARUNAKARAN, KUNNEL VEEDU, WARD NO.2, THURAVOOR PANCHAYAT, THURUVOOR POST, CHERTHALA TALUK.

BY ADV. SRI.R.SUDHISH
SMT.MANJU SUDHISH
SRI. K.SHAJ
SRI.B.BALRAJ
SRI.SAJJU.S

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No.835 of 2000

Dated this the 27th June, 2007.

J U D G M E N T

The Insurer in O.P.(M.V.) No.1045/90, on the file of the Motor Accidents Claims Tribunal, Alappuzha, is the appellant. The appellant is challenging the award passed by the Tribunal, by which the appellant is made liable to pay the compensation. According to the appellant, insurer, on the date of accident, the vehicle was not covered with a valid policy issued by the appellant. The first respondent, who was a minor, sustained injuries in a Motor Vehicle Accident. She filed the petition claiming a compensation of Rs.46,950/=, impleading the owner, driver and insurer. The owner and driver did not contest the matter. The appellant Insurer raised a contention that the vehicle was not covered with a valid policy issued by it. The Tribunal found that the first respondent is entitled to get an amount of Rs.10,000/= as compensation. In spite of the specific contention raised by the Insurer that the vehicle was not covered with a valid policy of insurance, the Tribunal directed the Insurer to pay the compensation. Challenging that award, this appeal is filed.

2. The learned counsel appearing for the appellant had contented that since the owner did not furnish the details of the policy, the Tribunal ought not have directed the appellant to pay the compensation awarded.

3. The learned counsel appearing for the 2nd respondent owner sumits that if he is given a chance, he will be able to furnish the details of the policy.

4. After considering all aspects of the matter, I am of the view that it is only just and proper to give an opportunity to the owner to prove his case that the vehicle was covered with a valid policy of insurance. For that limited purpose, the case has to go back to the Tribunal.

In the result, the appeal is allowed. The award passed by the Tribunal in O.P.(M.V.) No.1045/90 is hereby set aside. The matter is remanded to the Tribunal for fresh disposal. The Tribunal is directed to take Original Petition back to its file, and dispose of the same afresh, in accordance with law, as expeditiously as possible, at

any rate, within four months from the date of receipt of a copy of this judgment. However, I make it clear that the amount, if any, deposited by the appellant Insurer, shall be refunded to him.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No.835 of 2000

J U D G M E N T

Dated:27th June, 2007.